Supreme Court, U.S.
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No. 01-1280

IN THE

Supreme Court of the United States

CHANI LIGHTMAN,

Petitioner,

v.

RABBI TZVI FLAUM and RABBI DAVID WEINBERGER,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF APPEALS, STATE OF NEW YORK

BRIEF IN OPPOSITION

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QUESTION PRESENTED

Whether *certiorari* should be granted in connection with the opinion and order of the Court of Appeals of the State of New York, dated November 27, 2001, in an appeal entitled *Lightman v. Flaum*, Queens Co. Index No. 2169/97, *see* Appendix ("App.") at A1-A20, where the Court of Appeals of the State of New York defined the scope of said opinion and order as deciding "whether CPLR 4505 imposes a fiduciary duty of confidentiality upon members of the clergy that subjects them to civil liability for the disclosure of confidential communications." App. at A1.

TABLE OF CONTENTS

	Page
Question Presented	i
Table of Contents	ii
Table of Cited Authorities	iii
Statement of the Case	1
Preliminary Statement	1
Statement of Facts	1
A. The Rabbis' Submissions in the Related New York Matrimonial Proceeding	1
B. The Underlying New York State Action Against the Respondents	3
C. The Intermediate New York Appellate Disposition	5
D. The Opinion and Order of the New York State Court of Appeals	6
Reasons for Denying the Writ	9
The Opinion And Order Of The Court Of Appeals Of The State Of New York Does Not Bring Into Relevance Any Of The Well-Settled Criteria For The Exercise Of Jurisdiction By This Court	9
Conclusion	17

TABLE OF CITED AUTHORITIES

Page

Cases:

Anker v. Brodnitz, 98 Misc.2d 148, 413 N.Y.S.2d 582 (Sup. Ct. Queens Co.), *aff'd*, 73 A.D. 2d 589, 422 N.Y.S. 2d 887 (2d Dep't 1979), *appeal dismissed*, 51 N.Y. 2d 743, 432 N.Y.S. 2d 364, 411 N.E. 2d 783 (1980) 13

Doe v. Roe, 190 A.D.2d 463, 599 N.Y.S.2d 350 (4th Dep't), *appeal dismissed*, 82 N.Y. 2d 846, 606 N.Y.S. 2d 597, 627 N.E. 2d 519 (1993) 13

Henry v. State of Mississippi, 379 U.S. 443, 85 S. Ct. 564, 13 L. Ed. 2d 408, *reh'g denied*, 380 U.S. 926, 85 S. Ct. 878, 13 L. Ed. 2d 813 (1965) 15, 16

Krouner v. Koplovitz, 175 A.D.2d 531, 572 N.Y.S.2d 959 (3d Dep't 1991) 13

MacDonald v. Clinger, 84 A.D.2d 482, 446 N.Y.S.2d 801 (4th Dep't 1982) 13

Madden v. Creative Servs., Inc., 84 N.Y. 2d 745, 622 N.Y.S. 2d 478, 646 N.E. 2d 780 (1995) 14

Oringer v. Rotkin, 162 A.D.2d 113, 556 N.Y.S.2d 67 (1st Dep't 1990) 13

Tighe v. Ginsberg, 146 A.D.2d 268, 540 N.Y.S.2d 99 (4th Dep't 1989) 13

Cited Authorities

Page

Statute:

28 U.S.C. § 1257 ..... 1, 9, 10

Rule:

United States Supreme Court Rule 10 ..... 1, 10, 11

Other Authorities:

New York Judiciary Law, Appendix (McKinney 1992) 14

New York Practice Law and Rules § 4505 ..... *passim*

STATEMENT OF THE CASE

Preliminary Statement

The United States Supreme Court does not have jurisdiction over an opinion and order of the New York State Court of Appeals which found that a New York State statute, Section 4505 of the New York Civil Practice Law and Rules, was not intended by the New York State Legislature to be anything more than an evidentiary rule and, thus, did not give rise to a private cause of action. Petitioner has failed to satisfy any of the criteria warranting a grant of the petition for a writ of certiorari under either 28 U.S.C. § 1257 or Rule 10 of this Court's Rules of Practice.

STATEMENT OF FACTS

A. The Rabbis' Submissions in the Related New York Matrimonial Proceeding

The petitioner had commenced a matrimonial proceeding in the Supreme Court of the State of New York, County of Queens, on or about February 2, 1996. App. at A1-A2, A64. Simultaneously, petitioner filed a *pendente lite* motion for temporary custody of the Lightmans' four minor children and other relief. *Id.* In conjunction with that application, Dr. Lightman's former matrimonial counsel, Stephen Hans, Esq., secured affirmations from Rabbis Flaum and Weinberger which raised serious questions with respect to petitioner's fitness as a mother.[1] *See id.* at A63-A66, A94. Rabbi Flaum, who is affiliated

1. Neither Snitow Kanfer Holtzer & Millus, LLP, formerly known as Snitow & Cunningham, LLP, nor its predecessor, Snitow & Pauley (collectively, the "Snitow Firm"), represented Dr. Lightman at that time. As such, the Snitow Firm was neither involved in the defense of petitioner's *pendente lite* motion nor the procurement of affirmations (Cont'd)

with the Congregation Kneseth Israel in Far Rockaway, New York and also serves as the Chairman of the Vaad Harabonim, the Rabbinical Council of Far Rockaway and Lawrence, New York, and Co-Chairman of the Vaad Harabonim of Queens, and Rabbi Weinberger, who is affiliated with Temple Shaaray Tefila in Lawrence, believed and concluded that they were compelled by Jewish Law to disclose petitioner's statements to prevent Dr. Lightman from violating Jewish Law and, within the context of a sealed matrimonial proceeding, to protect the couple's minor children. App. at A1-A5, A63-A64.

The affirmations of Rabbis Flaum and Weinberger stated that during their separate encounters with petitioner, she had informed each of them that she was no longer adhering to the religious purification laws dictated by the Orthodox tradition of the Jewish Faith. *See* App. A2-A6, A64-A66. Rabbi Flaum's affirmation also asserts that petitioner informed him that "she was seeing a man in a social setting and admitted 'I am doing the wrong things.' " App. at A65.[2]

Petitioner's statements, as conveyed in the rabbis' affirmations, indisputably related to her fitness as a mother;

(Cont'd)

from Rabbis Flaum and Weinberger. Nor did the Snitow Firm represent Rabbis Flaum and Weinberger during the period in which their affirmations were secured by Dr. Lightman's former matrimonial counsel. The Snitow Firm was retained by respondents following the commencement of the matrimonial action in May 1997.

2. Rabbi Weinberger's affirmation also expressed the opinion that petitioner was no longer inclined to "adhere to Jewish law despite the fact that she . . . [was] an Orthodox Jew and her children . . . [were] being raised Orthodox as well . . . [and that] she has engaged in bizarre behavior." App. at A 66. This statement served as the basis for petitioner's defamation cause of action against Rabbi Weinberger. *Id.* That cause of action was dismissed by the New York State court of original instance before which the case was pending. *Id.* at A93-A95.

specifically, her capacity to raise the children in the Orthodox Jewish tradition. Indeed, as the New York State court of original instance opined in dismissing petitioner's defamation claim against Rabbi Weinberger, "[c]learly, the statements [related in the rabbis' affirmations] were pertinent to the [matrimonial] litigation in that they were intended to reflect upon plaintiff's fitness to be a good mother." App. at A94. Consistent with said court's opinion with respect to the relevance of the rabbis' affirmations to the child custody proceedings, the rabbis believed that, as a matter of Jewish Law, they were compelled to disclose petitioner's statements within the confines of the sealed matrimonial proceeding to protect the interests of the couple's children. App. at A68-A69. The rabbis also believed that they were required, as a matter of Jewish Law, to disclose petitioner's statements to her husband to prevent him from engaging in future sexual relations with his wife which, as a matter of Jewish Law, is prohibited unless the wife has attended the "mikvah" (ritual bath) and engaged in a monthly purification ritual. App. at A5, A65-A69.

B. The Underlying New York State Action Against the Respondents[3]

In the underlying action commenced by petitioner against the respondents, petitioner claimed that her communications to respondents were confidential and that respondents violated Section 4505 of the New York Practice Law and Rules (the "CPLR") and intentionally inflicted severe emotional distress upon her when they made the disclosures set forth in

3. *Lightman v. Flaum*, reported at 179 Misc. 2d 1007, 687 N.Y.S. 2d 562 (Sup. Ct. Queens Co. 1999) and reproduced in the Appendix at A61-A96.

their affirmations. App. at A3.[4] Petitioner also asserted a defamation claim against Rabbi Weinberger based upon certain statements of opinion contained in his affirmation. App. at A3, A93-A95.

Respondents moved to dismiss the complaint. App. at A3. After converting, *sua sponte*, respondents' motion to dismiss into a summary judgment motion, *see* App. at A23-A24, A30, A61, the New York Supreme Court, Queens County, (a) entered partial summary judgment against Rabbi Weinberger on respondent's CPLR § 4505 claim; (b) entered summary judgment dismissing petitioner's defamation claim against Rabbi Weinberger; and (c) denied summary judgment on petitioner's intentional infliction of severe emotional distress claims. App. at A61-A96. In addition, said court scheduled a hearing to resolve a factual question with respect to whether a third party's presence during petitioner's encounter with Rabbi Flaum may have resulted in the waiver of any clergy-penitent privilege she may have had. App. at A61-A62, A95-A96.

By Decision and Order dated March 4, 1999, *see* App. at A61-A96, the New York Supreme Court, Queens County, disposed of respondents' motion to dismiss the complaint as follows. With respect to petitioner's CPLR § 4505 claims, said court, while conceding that a "cause of action does not automatically exist for breach of an evidentiary rule," App. at A70, held that petitioner had stated a cognizable claim

4. CPLR § 4505 provides as follows:

§ 4505. Confidential communication to clergy privileged.

Unless the person confessing or confiding waives the privilege, a clergyman, or other minister of any religion or duly accredited Christian Science practitioner, shall not be allowed to disclose a confession or confidence made to him in his professional character as spiritual advisor.

based upon a breach of the "fiduciary duty of confidentiality" purportedly implicated by the CPLR § 4505 clergy-penitent privilege. *Id.* Significantly, the New York court, at the very outset of its legal discussion, did not utter one word about the United States Constitution or other federal law. Rather, it focused solely on what it perceived to be a common law cause of action finding its genesis in a state law evidentiary privilege. The New York court stated that "our courts have repeatedly recognized that violation of certain privileges does give rise to a common law cause of action for breach of the fiduciary duty of confidentiality." App. at A70. That court thereafter granted summary judgment in petitioner's favor against Rabbis Flaum and Weinberger on her CPLR § 4505 claims subject to a determination at trial as to (a) whether respondent had been seeking spiritual advice and counseling when she met with respondents; and (b) whether the presence of third parties at petitioner's separate meetings with Rabbis Flaum and Weinberger effected a waiver of the privilege.[5] App. at A61-A62, A95-A96. With respect to petitioner's intentional infliction of severe emotional distress claims, the New York Supreme Court, Queens County, denied respondents' motion to dismiss those claims. App. at A90-A93.

C. The Intermediate New York Appellate Disposition[6]

By Decision and Order dated December 18, 2000, the Appellate Division, Second Department reversed the Queens County State Supreme Court's determination and granted the

5. The affirmations indicate that petitioner's mother was present during her encounter with Rabbi Flaum and that a friend, Yael Hirsh, was present during her meeting with Rabbi Weinberger. App. at A68-A69.

6. *Lightman v. Flaum*, reported at 278 A.D.2d 373, 717 N.Y.S.2d 617 (2d Dep't 2000) and reproduced in the Appendix at A21-A60.

respondents' converted motion for summary judgment dismissing the first, second, third and fourth causes of action of the Complaint. *See* App. at A21-A25. The two dissenting justices, Honorable Sondra Miller and Honorable William D. Friedmann, issued a memorandum of their dissent which sets forth their analysis of the substantive merits of the parties' underlying positions and rendering opinions on substantive issues which include whether CPLR § 4505 — a rule of evidence — can form the basis of a cause of action and whether a cause of action for breach of fiduciary duty can be stated against religious clergymen. *See* App. at A25-A60. The dissent commenced its analysis by calling all other evidentiary privileges "analogous" to the clergy-penitent privilege, App. at A29, and then proceeded from that point to conclude that the opinions of the New York State court of original instance regarding the rabbis' religion-based communications should be upheld. *See id.* at A30-A60.

D. The Opinion and Order of the New York State Court of Appeals[7]

Petitioner appealed the foregoing determination to New York's court of last resort — the Court of Appeals of the State of New York. *See* App. at A1-A20. The New York Court of Appeals disposed of the appeal in its Opinion and Order, dated November 27, 2001, affirming the majority opinion order of the New York Supreme Court, Appellate Division. *See* App. at A1-A20. The New York Court of Appeals, in clear and unequivocal language, characterized the question before it in strictly state law terms, as follows:

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7. *Lightman v. Flaum*, reported at 97 N.Y.2d 128, 736 N.Y.S.2d 300, 761 N.E.2d 1027 (2001) and reproduced in the Appendix at A1-A20.

> In this appeal, we must decide whether CPLR 4505 imposes a fiduciary duty of confidentiality upon members of the clergy that subjects them to civil liability for the disclosure of confidential communications. We hold that it does not.

App. at A1.

After a recitation of the facts of the case, *see* App. at A1-A7, the New York State Court of Appeals commenced an analysis of Article 45 of the New York Civil Practice Law and Rules which codify the various evidentiary privileges applicable in civil litigation in the state. *See* App. at A8. *See also id.* at A12-A15. The Court of Appeals then turned its focus to the particular privilege in issue, CPLR 4505, codifying the clergy-penitent privilege. *See* App. at A9.

A proper reading of the length and breadth of the Court of Appeals opinion confirms that the entire thrust of it is completely consistent with its opening sentence; to wit, that it is engaged in a state court analysis of state law and the scope and possible penumbra of causes of action allegedly emanating from that state law. *See* App. at A1. In the course of its analysis of the impact of the clergy-penitent privilege on the state of substantive tort law in the State of New York, the New York State Court of Appeals examined sister privileges of the clergy-penitent privilege, such as the attorney-client privilege and the physician-patient privilege, and concluded that "although the statutory privileges may in some instances overlap with the applicable fiduciary duties of confidentiality which have been defined elsewhere in the law, those evidentiary rules are not the sources of the underlying duties, and article 45 does not establish the parameters of those fiduciary relationships." App. at A15. Channeling its continuing analysis to CPLR Section 4505, the Court of Appeals noted that:

> [C]lerics are free to engage in religious activities without the State's permission, they are not subject to State-dictated educational prerequisites and, significantly, no comprehensive scheme regulates the clergy-congregant spiritual counseling relationship. This explains plaintiff's inability to identify a source of defendants' alleged duty of confidentiality independent of CPLR 4505.

App. at A16-A17.

The New York State Court of Appeals concluded its quintessentially state law analysis thus:

> Guided by these well-settled principles and in the absence of a statute, regulation or other source delineating the scope and nature of the alleged fiduciary duty, we view the CPLR 4505 privilege *in the manner intended by the Legislature* — as a rule of evidence and not as the basis of a private cause of action. Although plaintiff understandably resents the disclosure of intimate information she claims she revealed to defendants in their role as spiritual counselors, we hold that, as a matter of law CPLR 4505 — directed at the admissibility of evidence —does not give rise to a cause of action for fiduciary duty involving the disclosure of oral communications between a congregant and a cleric.

App. at A19 (emphasis added).

Nothing could be plainer. The Court of Appeals of the State of New York was opining on the scope and import of Section 4505 of the New York Civil Practice Law and Rules as "intended by the Legislature" of the State of New York. App. at A19. Consequently, as will be discussed further herein, this state law

decision cannot form a proper predicate for the exercise of jurisdiction by this Court pursuant to the United States Code and the Rules of Practice of this Court. A writ of certiorari may only be granted by this Court where the state court has called into question a federal law or a state law as violative of the federal constitution or where the state court has decided an important federal question, and even then, only under certain circumstances. Because none of these criteria exist in this case the instant petition for a writ of certiorari should be denied, as will be discussed.

REASONS FOR DENYING THE WRIT

THE OPINION AND ORDER OF THE COURT OF APPEALS OF THE STATE OF NEW YORK DOES NOT BRING INTO RELEVANCE ANY OF THE WELL-SETTLED CRITERIA FOR THE EXERCISE OF JURISDICTION BY THIS COURT

Section 1257(a) of Title 28 of the United States Code provides as follows:

> **§ 1257. State courts; certiorari**
>
> **(a)** Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

28 U.S.C. § 1257(a).

Rule 10 of the Rules of Practice of the Supreme Court of the United States provides, in pertinent part, as follows:

> **Rule 10. Considerations Governing Review on Certiorari**
>
> Review on a writ of certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted only for compelling reasons. The following, although neither controlling nor fully measuring the Court's discretion, indicate the character of the reasons the Court considers:
>
> * * *
>
> (b) a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals;
>
> (c) a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

Of course, the New York litigation involving the extent of procedural rule 4505 of the CPLR and whether it gives rise to a substantive tort claim has nothing at all to do with any of the matters identified in Section 1257(a) of Title 28 of the United States Code. No federal treaty or statute is brought into question, nor is CPLR Section 4505 challenged as being repugnant to federal law. As will be further demonstrated, none of the criteria identified in Rule 10 of this Court's Rules of Practice are satisfied either.

Both Subdivisions (b) and (c) of Rule 10 begin with the same prerequisite; to wit, that the state court has decided "an important federal question" (Subdivision (b)) or, otherwise stated, "an important question of federal law" (Subdivision (c)). It is simply inconceivable for the petitioner to credibly maintain that the New York State Court of Appeals rendered any such decision in the *Lightman v. Flaum* litigation. As is clearly discernible from any plain reading of the Court of Appeals opinion and order, and as highlighted hereinabove, the Court of Appeals simply held, as it declared at the outset of its decision and reiterated therein, that the evidentiary privilege codified at Section 4505 of the New York Civil Practice Law and Rules is purely procedural in nature and scope and does not give rise to a private cause of action under the substantive law of torts in the State of New York. Again, as the Court of Appeals announced from the very beginning, "[i]n this appeal, we must decide whether CPLR 4505 imposes a fiduciary duty of confidentiality upon members of the clergy that subjects them to civil liability for the disclosure of confidential communications. We hold that it does not." App. at A1. *See also id.* at A19 ("we view the CPLR 4505 privilege in the manner intended by the Legislature — as a rule of evidence and not as the basis of a private cause of action."). Nothing contained in the Court of Appeals opinion and order can reasonably be construed as constituting a decision on "an important federal question" or on "an important question of federal law." S. Ct. Rule 10(b), (c).

Petitioner's counsel unwittingly acknowledges that this is a uniquely state law matter involving no important federal question. After citing the Court to the various other state statutes codifying the common law clergy-penitent privilege, *see* Petition for Writ of Certiorari (undated) (the "Petition") at 11-12, counsel openly acknowledges that all the provisions of Article 45 of the

New York Civil Practice Law and Rules "codify evidentiary rules that restrict the admissibility of information that is communicated in certain confidential communications." Petition at 13. That is precisely the point, as the New York Court of Appeals expressly held. *See* App. at A19 ("we view the CPLR 4505 privilege in the manner intended by the Legislature — as a rule of evidence and not as the basis of a private cause of action."). That holding — which is essentially a New York appellate declaration of the jural limits of a New York statute — is entirely distinct of any possible federal question. This case involves, exclusively, the following state law question: Does the procedural rule of CPLR Section 4505 give rise to substantive rights in tort under New York law? The New York Court of Appeals held that it did not.

A plain review of the New York Court of Appeals opinion and order reveals that its analysis is based overwhelmingly on the principle that the evidentiary privileges applicable to various professionals in the State of New York, as codified in Article 45 of New York's CPLR, do not furnish the predicate for whatever tort of breach of fiduciary duty may exist under New York substantive law vis-a-vis those professionals resulting from their disclosure of confidences conveyed to them by those reposing trust. The linchpin of this realization is set forth clearly in the following statement by the New York Court of Appeals: "Thus, although the statutory privileges may in some instances overlap with the applicable fiduciary duties of confidentiality *which have been defined elsewhere in the law*, those evidentiary rules are not the sources of the underlying duties, and article 45 does not establish the parameters of those fiduciary relationships." App. at A15 (emphasis added).

The foregoing observation by the New York Court of Appeals is grounded on the well settled substantive principles developed by the courts of that state. The courts of New York

have imposed liability upon professionals by finding a breach of fiduciary duty not to disclose confidences, completely irrespective of any evidentiary privilege that may also happen to attach to those professionals. *See Doe v. Roe*, 190 A.D.2d 463, 599 N.Y.S.2d 350 (4th Dep't) (physician-patient), *appeal dismissed*, 82 N.Y.2d 846, 606 N.Y.S.2d 597, 627 N.E.2d 519 (1993); *Krouner v. Koplovitz*, 175 A.D.2d 531, 572 N.Y.S.2d 959 (3d Dep't 1991) (attorney-client); *Oringer v. Rotkin*, 162 A.D.2d 113, 114, 556 N.Y.S.2d 67, 68 (1st Dep't 1990) (psychologist-patient); *Tighe v. Ginsberg*, 146 A.D.2d 268, 540 N.Y.S.2d 99 (4th Dep't 1989) (physician-patient); *MacDonald v. Clinger*, 84 A.D.2d 482, 446 N.Y.S.2d 801 (4th Dep't 1982) (psychiatrist-patient); *Anker v. Brodnitz*, 98 Misc.2d 148, 413 N.Y.S.2d 582 (Sup. Ct. Queens Co.) (physician-patient), *aff'd*, 73 A.D.2d 589, 422 N.Y.S.2d 887 (2d Dep't 1979), *appeal dismissed*, 51 N.Y.2d 743, 432 N.Y.S.2d 364, 411 N.E.2d 783 (1980). Those New York courts did not predicate liability for the disclosures involved in these cases upon a violation of the statutory evidentiary privileges, including the clergy-penitent privilege.

Indeed, a closer look at the codified evidentiary privileges enacted with respect to secular professionals reveals that they are derivations of the internal value systems which those secular professionals have developed, articulated, and accepted upon themselves as professional norms. A prime example of this reality is found at the outset of the Lawyers' Code of Professional Responsibility codified in the New York Judiciary Law. As stated therein,

> *The Code of Professional Responsibility, as promulgated by the American Bar Association in August, 1969, was adopted by the New York State Bar Association as its own code of ethics, effective*

> *January 1, 1970, with certain amendments which have been incorporated into the Code as set out herein.*

N.Y. Judiciary Law, Appendix at 350 (McKinney 1992) (italics in original). As the New York Court of Appeals stated in *Madden v. Creative Servs., Inc.*, 84 N.Y.2d 745, 622 N.Y.S.2d 478, 646 N.E.2d 780 (1995),

> At common law, communications between attorney and client were held confidential as a matter of the attorney's code of honor. That precept is embodied in the Code of Professional Responsibility binding attorneys to keep private the confidential communications and secrets of their clients on pain of professional discipline, including loss of their license to practice law.

622 N.Y.S.2d at 481 (citations omitted). While the legal profession has accepted upon itself a norm of secrecy vis-a-vis the client community it serves, no sufficient evidence was ever submitted by the petitioner to the New York courts that the rabbinical clergy have developed and embraced a similar value vis-a-vis the denominational community it serves. As the New York Court of Appeals observed in its opinion and order,

> In contrast, clerics are free to engage in religious activities without the State's permission, they are not subject to State-dictated educational prerequisites and, significantly, no comprehensive statutory scheme regulates the clergy-congregant spiritual counseling relationship. *This explains plaintiff's inability to identify a source of defendants' alleged duty of confidentiality independent of CPLR 4505.*

App. at A16-A17 (emphasis added).

Consequently, the conclusion of the New York Court of Appeals was firmly premised upon independent and adequate state grounds; to wit, the total absence of any substantive tort liability for disclosure of congregant confidences by rabbinic clergymen under New York law. "This explains plaintiff's inability to identify a source of defendants' alleged duty of confidentiality independent of CPLR 4505." App. at A16-A17. As this Court has held, "this Court will decline to review state court judgments which rest on independent and adequate state grounds. . . ." *Henry v. State of Mississippi*, 379 U.S. 443, 446, 85 S. Ct. 564, 567, 13 L. Ed. 2d 408, *reh'g denied*, 380 U.S. 926, 85 S. Ct. 878, 13 L. Ed. 2d 813 (1965).

Petitioner's counsel turns somersaults in his half-hearted attempt to color this uniquely state law matter as one involving an important federal question. Peppered throughout his submission are self tailored references to "the canons of Catholicism," Petition at 10, "Jewish law," *id.* at 11, and "First Amendment jurisprudence." *Id.* at 17. Upon reflection, however, the New York Court of Appeals based its decision on straightforward state law analysis of the breadth and scope of the evidentiary dictates of Article 45 of the New York Civil Practice Law and Rules, as observed hereinabove. Insofar as the New York Court of Appeals touched upon possible constitutional implications at the very end of its discussion, *see* App. at A17-A19, its exercise in doing so merely involved the incidental recognition of indisputable foundations of our constitution, such as the undeniable fact that "the prospect of conducting a trial to determine whether a cleric's disclosure is in accord with religious tenets has troubling constitutional implications." App. at A17. *See also id.* ("To permit a party to introduce evidence or offer experts to dispute an interpretation or application of religious requirements would place fact-finders in the inappropriate role of deciding whether religious law has been violated."). As this Court has held, however,

> It is, of course, a familiar principle that this Court will decline to review state court judgments which rest on independent and adequate state grounds, even where these judgments also decided federal questions. . . . [W]e have no power to revise judgments on questions of state law. Thus, the adequate nonfederal ground doctrine is necessary to avoid advisory opinions.

Henry v. State of Mississippi, 379 U.S. 443, 446-47, 85 S. Ct. 564, 567, 13 L. Ed. 2d 408, *reh'g denied*, 380 U.S. 926, 85 S. Ct. 878, 13 L. Ed. 2d 813 (1965).

As demonstrated, the New York Court of Appeals played an exclusively state court role in defining the scope of a state law — Section 4505 of the New York Practice Law and Rules. As that court explicitly framed its purpose at the very inception of its opinion, "[i]n this appeal, we must decide whether CPLR 4505 imposes a fiduciary duty of confidentiality upon members of the clergy that subjects them to civil liability for the disclosure of confidential communications. We hold that it does not." App. at A1. As none of the criteria for certiorari exist in such a case as this, it is respectfully submitted that no basis for the exercise of Title 28 jurisdiction may be found upon which to premise the grant of a writ. The instant petition for a writ of certiorari should, therefore, be denied.

CONCLUSION

For all these reasons, it is respectfully requested that the Court deny the Petition for a Writ of Certiorari in all respects.

Respectfully submitted,

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